

## **REMARKS**

Claims 1-12 and 22-27 were previously pending. Claims 1 and 3 have been amended. These amendments are supported at least by the disclosure in page 26, line 27 to page 27, line 2 of the specification. Claim 9 has been cancelled by way of this amendment. No new matter has been introduced. Upon entry of this amendment, claims 1-8, 10-12, and 22-27 will be pending.

### **Claim Rejections under 35 U.S.C. §103**

I. Applicants respectfully traverse the obviousness rejections of claims 1-9, 12, 22, and 26 over Takeuchi et al (US 6,245,880) in view of Endo et al (US 4,127,590). Claim 9 has been cancelled, rendering the rejection of this claim moot.

Claims 1 and 3, as amended, recite a thermoplastic resin composition for masterbatches comprising a polyester resin, wherein “said polyester resin contains an aluminum compound as a polymerization catalyst used for said polyester resin.”

Neither Takeuchi nor Endo teaches or suggests a polyester resin composition containing an aluminum compound as a polymerization catalyst, as recited in claims 1 or 3. Instead, Takeuchi discloses an antimony compound as a polymerization catalyst (column 6, lines 1-3), while Endo discloses a compound of germanium, antimony, or titanium as a polymerization catalyst (column 12, lines 19-23). Because Takeuchi and Endo fail to disclose or suggest all the limitations of current claims 1 and 3, a prima facie case of obviousness has not been established. Withdrawal of the rejections of claims 1-8, 12, 22, and 26 over Takeuchi in view of Endo is respectfully requested.

II. Applicants respectfully traverse the obviousness rejections of claims 10 and 11 over Takeuchi in view of Endo and Tamura et al (US 2002/0186120), the obviousness rejection of claim 23 over Takeuchi in view of Endo and Marston et al (WO 02/063079), the obviousness rejections of claims 24 and 25 over Takeuchi in view of Endo, Eto et al (JP 2003-147063), Park et al (US 5,478,911), and Chen et al (US 5,916,677), and the obviousness rejection of claim 27 over Takeuchi in view of Endo and Murschall et al (US 2002/0128358).

As discussed above, Takeuchi in view of Endo fails to teach or suggest a thermoplastic resin composition for masterbatches comprising a polyester resin that contains an aluminum compound as a polymerization catalyst, as recited in present claims 1 and 3. The deficiency of

Takeuchi and Endo is not cured by any of Tamura, Marston, Eto, Park, Chen, and Murschall at least because none of these references teaches or suggests a polyester resin that contains an aluminum compound as a polymerization catalyst, as recited in claims 1 and 3 . Therefore, a prima facie case of obviousness has not been established. Withdrawal of the rejections is respectfully requested.

### **Double Patenting**

Claims 1-5, 7 and 8 were rejected on the ground of nonstatutory obviousness-type double patenting as being obvious over claims 13-18 of Takeuchi in view of Endo. Applicants respectfully traverse the rejections. Without acquiescence with the rejections, claims 1 and 3 have been amended to recite “said polyester resin contains an aluminum compound as a polymerization catalyst used for said polyester resin.” Amended claims 1 and 3 (and all claims dependent therefrom) would not have been obvious over claims 13-18 of Takeuchi in view of Endo because claims 13-18 of Takeuchi in view of Endo do not teach or suggest a thermoplastic composition comprising a polyester resin that contains an aluminum compound as a polymerization catalyst. Withdrawal of the rejections is respectfully requested.

**CONCLUSION**

The Office is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Although not believed necessary, the Office is hereby authorized to charge any fees required under 37 C.F.R. §1.16 or §1.17 or credit any overpayments to Deposit Account No. 11-0600.

Respectfully submitted,  
KENYON & KENYON LLP

Dated: September 30, 2009

/Qi Zhao/  
Qi Zhao  
Reg. No. 64,129

1500 K Street, N.W., Suite 700  
Washington, DC 20005-1257  
Tel: (202) 220-4200  
Fax: (202) 220-4201